

RECEIVED

DOCKET FILE COPY ORIGINAL

OCT 29 1993

KAYE, SCHOLER, FIERMAN, HAYS & HANDLER

THE MCPHERSON BUILDING

901 FIFTEENTH STREET, N.W., SUITE 1100

WASHINGTON, D.C. 20005-2327

(202) 682-3500

FACSIMILE

(202) 682-3580

425 PARK AVENUE  
NEW YORK, NY 10022-3598  
(212) 836-8000

1999 AVENUE OF THE STARS  
SUITE 1600  
LOS ANGELES, CA 90067-6048  
(310) 788-1000

SQUARE DE MEEÛS 30  
1040 BRUSSELS, BELGIUM  
(322) 514-4300

WRITER'S DIRECT DIAL NUMBER

(202) 682-3526

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

18<sup>TH</sup> FLOOR  
NINE QUEEN'S ROAD CENTRAL  
HONG KONG  
(852) 845-8989

SCITE TOWER, SUITE 708  
22 JIANGUOMENWAI DAJIE  
BEIJING  
PEOPLE'S REPUBLIC OF CHINA  
(861) 512-4755

FACSIMILE  
NEW YORK (212) 836-8689  
WASHINGTON (202) 682-3580  
LOS ANGELES (310) 788-1200  
BRUSSELS (322) 514-4437  
HONG KONG (852) 845-3682  
(852) 845-2389  
BEIJING (861) 512-4760

October 29, 1993

Mr. William F. Caton  
Acting Secretary  
Federal Communications Commission  
1919 M Street, N.W.  
Room 222  
Washington, D.C. 20554

Re: MM Docket No. 93-178  
Howard B. Dolgoff  
(File No. BPH-911223ME)

Dear Mr. Caton:

Submitted herewith for filing, on behalf of our client, Howard B. Dolgoff, an applicant in the above-referenced comparative hearing proceeding (MM Docket No. 93-178), are an original and six (6) copies of his Supplement To Joint Motion For Approval of Settlement Agreement in the proceeding. Kindly refer this submission to Administrative Law Judge John M. Frysiak.

Please direct any inquiries concerning this submission to the undersigned.

Respectfully submitted,

KAYE, SCHOLER, FIERMAN, HAYS &  
HANDLER

By:

Irving Gastfreund

Enclosures

DOC #12088214

No. of Copies rec'd  
List ABCDE

046

**Federal Communications Commission****OCT 29 1993**

WASHINGTON, D.C. 20554

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

In re Applications of	)	MM Docket No. 93-178
	)	
HOWARD B. DOLGOFF and	)	File No. BPH-911223ME
	)	
MARK AND RENEE CARTER	)	File No. BPH-911224MD
	)	
For a Construction Permit For a	)	
New FM Radio Station on Channel	)	
292A in Miramar Beach, Florida	)	

TO: Administrative Law Judge John M. Frysiak**SUPPLEMENT TO JOINT MOTION FOR  
APPROVAL OF SETTLEMENT AGREEMENT**

HOWARD B. DOLGOFF ("Dolgoff"), by his attorneys, hereby supplements the Joint Motion For Approval Of Settlement Agreement filed in this proceeding on October 27, 1993. The purpose of the instant Supplement is to supply a supplementary declaration on behalf of undersigned counsel for Dolgoff with respect to the particular legal services rendered by Kaye, Scholer, Fierman, Hays & Handler on behalf of Dolgoff in connection with his captioned application. This Supplement is being filed pursuant to informal discussions by the undersigned counsel for Dolgoff

and counsel for the Mass Media Bureau.

Respectfully submitted,

HOWARD B. DOLGOFF

By:   
Irving Gastfreund

Kaye, Scholer, Fierman, Hays &  
Handler  
The McPherson Building  
901 15th Street, N.W., Suite 1100  
Washington, D.C. 20005

His Attorneys

October 29, 1993

### DECLARATION

I, Irving Gastfreund, do hereby declare, certify and state as follows:

1. I am Washington Counsel with the law firm of Kaye, Scholer, Fierman, Hays & Handler ("Kaye, Scholer"). Kaye, Scholer is the law firm which assisted Howard B. Dolgoff in connection with the preparation, filing and prosecution of his application (File No. BPH-911223ME) for a construction permit for a new FM radio station on Channel 292A in Miramar Beach, Florida.

2. In pursuit of the aforementioned Miramar Beach, Florida FM construction permit, Howard B. Dolgoff has incurred total legal fees with Kaye, Scholer well in excess of the \$30,000 settlement payment which he is to receive under the Settlement Agreement which he has entered into with Mark and Renee Carter. The legal services performed by Kaye, Scholer in this connection included, without limitation, preparing, filing and prosecuting Mr. Dolgoff's application, amendments thereto, preparation of pleadings in MM Docket No. 93-178 before the FCC, involving Mr. Dolgoff's application (including legal research in connection with preparation of such pleadings), counselling and advising Mr. Dolgoff in connection with Commission requirements regarding "reasonable assurance" of transmitter site availability, "reasonable assurance" of sources of funding to meet anticipated

construction and first quarter-year operational expenses, regarding the comparative factors applicable to resolution of the Miramar Beach proceeding, etc. Among the many pleadings filed by Kaye, Scholer on behalf of Mr. Dolgoff in connection with the prosecution of his aforementioned Miramar Beach application are those which are listed in Attachment 1 annexed here and made a part hereof.

3. The legal expenses referenced herein were legitimately and prudently incurred by Howard B. Dolgoff in connection with the prosecution of his aforementioned Miramar Beach, Florida, application.

I hereby declare, certify and state, under penalty of perjury, that the foregoing is true and correct to the best of my knowledge, information and belief.

  
Irving Gastfreund

Date: October 29, 1993

Attachment 1 To  
Declaration of Irving Gastfreund

**PARTIAL LISTING OF PLEADINGS PREPARED BY KAYE, SCHOLER  
ON BEHALF OF HOWARD B. DOLGOFF IN CONNECTION WITH THE  
PROSECUTION OF HIS APPLICATION (FILE NO. BPH-911223ME)  
FOR A NEW FM RADIO STATION ON CHANNEL 292A  
IN MIRAMAR BEACH, FLORIDA**

1. July 9, 1992: Opposition To Petition To Deny
2. July 12, 1993: Opposition To Request To Certify  
Application For Review
3. July 12, 1993: Notice of Appearance
4. July 12, 1993: Motion For Partial Summary Decision
5. July 13, 1993: Motion To Strike
6. July 14, 1993: Motion To Strike
7. July 26, 1993: Integration And Diversification  
Statement
8. July 26, 1993: Document Production of Howard B. Dolgoff
9. August 9, 1993: Proof Of Publication
10. August 10, 1993: Opposition To Counter Motion For  
Summary Decision
11. August 10, 1993: Petition To Enlarge Issues
12. August 10, 1993: Opposition To Contingent Motion To  
Enlarge Issues
13. August 11, 1993: Erratum To Petition To Enlarge Issues
14. September 1, 1993: Reply To Opposition To Petition To  
Enlarge Issues
15. September 15, 1993: Petition For Leave To File  
Interlocutory Appeal
16. October 4, 1993: Hearing Exhibits
17. October 12, 1993: Notification of Witnesses Desired For  
Cross-Examination

**CERTIFICATE OF SERVICE**

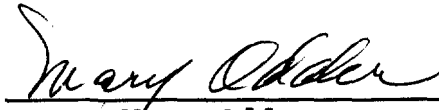
I, Mary Odder, a secretary with the law firm of Kaye, Scholer, Fierman, Hays & Handler, hereby certify that on this 29th day of October, 1993, have caused a copy of the foregoing Supplement To Joint Motion For Approval Of Settlement Agreement to be hand-delivered or to be sent via first-class United States mail, postage prepaid, to the following:

Honorable John M. Frysiak\*  
Administrative Law Judge  
Federal Communications Commission  
2000 L Street, N.W.  
Room 223  
Washington, D.C. 20554

Paulette Laden, Esq.\*  
Hearing Branch, Enforcement Division  
Mass Media Bureau  
Federal Communications Commission  
2025 M Street, N.W.  
Room 7212  
Washington, D.C. 20554

Chief Counsel, AGC 230  
Federal Aviation Administration  
800 Independence Avenue, S.W.  
Washington, D.C. 20591

Frank J. Martin, Jr., Esq.\*  
Southerland, Asbill & Brennan  
1275 Pennsylvania Avenue, N.W.  
Washington, D.C. 20004-2404  
Counsel for Mark and Renee Carter

  
\_\_\_\_\_  
Mary Odder

\*/ Via Hand-Delivery